

APPROVED: Meeting No. 41-95

ATTEST: 

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND
Meeting No. 26-95

May 8, 1995

The Mayor and Council of Rockville, Maryland, convened in General Session in the Council Chamber, Rockville City Hall, 111 Maryland Avenue, Rockville, Maryland, on May 8, 1995, at 7:33 p.m.

PRESENT

Mayor Pro Tem James T. Marrinan

Councilmember Robert E. Dorsey

Councilmember Nina A. Weisbroth

Councilmember Rose G. Krasnow

ABSENT

Mayor James F. Coyle (On travel)

In attendance: Acting City Manager Rick Kuckkahn, City Clerk Paula Jewell, and City Attorney Paul Glasgow.

Upon motion of Councilmember Dorsey, duly seconded and unanimously passed, Councilmember James Marrinan was appointed to serve as Mayor Pro Tem.

Re: City Manager's Report

1. On April 29, the City in cooperation with the American Legion Post 86, held its Sixth Annual Fishing Tournament. Five hundred people participated, including 15 senior citizens. A total of 55 trout were caught, and the event was very successful.
2. On May 7, the Mayor and Council attended the Rockville Senior Center's twelfth celebration honoring grandparents and grandchildren. This year's theme focused on an international flavor and celebrated the bond between grandparents and grandchildren around the world.

3. Rockville Arts Place (RAP) classes are forming for ages 5 to 15. RAP provides a variety of exciting educational classes, and registrations are due May 26. RAP is also sponsoring the May 19th "Art For A Steal" event; for \$99, persons can be guaranteed an original piece of art.

4. The City is pleased to announce a Spring time concert series, "Noontime Serenades." The free program takes place at noon on Wednesdays, May 3-31 in the City Hall Council Chambers.

5. This weeks' 10 o'clock news on Fox Channel 5 will feature a five-part series on the Rockville Climbing Gym located at Civic Center Park. The Climbing Gym has been in operation for five years and enjoys a loyal following of participants. Interested persons are encouraged to contact Betsy Thompson, 309-3344.

6. Mr. Kuckkahn gave a rundown on this year's Hometown Holidays weekend events and entertainment line-up for May 27-29. Mr. Kuckkahn noted that the Saturday and Sunday events would take place as usual at the Middle Lane site. The Monday parade will take place on North Washington Street; however there will be no activities following the parade, as done in the past, primarily due to the work going on in Town Center. In terms of sponsorship, the City for the first time broke the \$100,000 mark. The Chamber of Commerce took the lead in this area and did a terrific job in obtaining sponsors.

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Re: Proclamation declaring May 30,
1995, Memorial Day,
ROCKVILLE POPPY DAY.

Councilmember Dorsey read and moved the Proclamation declaring May 30, 1995, Memorial Day, as Poppy Day in Rockville. Rae Noyes, President, and other members of Henderson Smith Edmonds Unit No. 86, American Legion Auxiliary, accepted the Proclamation, and the 1995 Poppy Girl, Colleen Keller, distributed poppies.

Re: Proclamation Declaring May 20-
26, 1995 as **SAFE BOATING
WEEK.**

Councilmember Weisbroth read and moved the Proclamation declaring May 20-26, 1995 as Safe Boating Week in Rockville. Robert Stein, Jr., Commander, Rockville Power Squadron accepted the Proclamation. Terry Green, Frank Mann, Lester Dannecker, Robert Goley, Robert Swain, Charles Hollister, Harold Lieberman, Frank Leone, and Donald Carl, representing the Rockville Power Squadron accompanied Commander Stein.

Re: Proclamation declaring May 14-
20, 1995 **HISTORIC
PRESERVATION WEEK.**

Councilmember Krasnow read and moved the Proclamation declaring May 14-20, 1995 as Historic Preservation Week in Rockville. Sima Osdoby, President of Peerless Rockville Historic Preservation, Ltd., accepted the Proclamation.

Re: Presentation of Peerless
Rockville's 16th Annual Awards
for Historic Preservation.

Sima Osdoby, President of Peerless Rockville, introduced the Peerless

Rockville Board of Directors, the Historic Preservation Awards Committee, and the presenters who then announced the following award recipients: Senator Jennie Forehand, Maryland State Senator presented an award to the Mayor and Council for landscaping Veterans Park to create a park-like atmosphere on half-acre public island. Judy Hruz, Editor of The Rockville Gazette presented an award to Sarah Poling for a new residential construction (204 Harrison Street) which fit well into a historic neighborhood. Stacy Wood, Chair of the 1995 Awards Committee, presented an award to Jacob Lenihan for retaining the period beauty of a 1913 house located at 309 Potomac Street. Delegate Michael Gordon, Maryland House of Delegates, presented an award to the Mayor and Council for recreating and installing brick sidewalks and period lighting in the West Montgomery Avenue public right-of-way. Delegate Kumar Barve, Maryland House of Delegates, presented an award to the Parklawn Memorial Park & Menorah Gardens for restoring Wilkins Mansion and retaining original elegant character of a historic estate.

Re: Presentation of Rockville
Scholarship Foundation (RSF)
Awards.

Richard Rothenberg, RSF Board Member, accompanied by Cynthia Malament, President of Rockville Chamber of Commerce and Chuck Rheinsmith, President of Rockville Scholarship Foundation, Inc., presented awards to the 1995 scholarship winners: Carolyn Amspaugh (Rockville High School), Sulene Chi (Wootton High School), Chae Park (Richard Montgomery High School), Tammi Routh (Academy of the Holy Cross), Lingyun Shao (Richard Montgomery High School), and Anita Wu (Wootton High School).

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Re: Presentation of Certificates of Appreciation to Volunteer Mentors in the Intergenerational: Senior/Youth Advocacy and Mark Twain Mentoring Programs.

Certificates of Appreciation were presented to the following mentors who provided advocacy and support to "at-risk" teenage girls at Mark Twain and Richard Montgomery High Schools: Carol Binta, Robin Cairns, Willie Mae Carey, Patricia Dubroof, Dorothy Harrell, Ardell Hilliard, Teresa James, Tina Paige, Josephine Roberts, Elyse Sharpe, and Phyllis Smolkin. In addition, Certificates of Appreciation were presented to the following mentors of the Mark Twain Mentoring Program who were matched with "at-risk" African-American teenage males: Mary Atkinson, Nicole Black, Shelley Brown, Walter Craven, Walter Davis, Aaron Evrad, Lysa Hall, Raymond Harris, Cobey Kuff, Roland La Granade, Lee McArthur, Michael Mitchell, Steven Muse, Phyllis Smolkin, and Chester Thompson.

Re: Citizens Forum - This time is set aside to hear from any citizen who wishes to address the Mayor and Council.

1. Delegate Mike Gordon asked to take advantage of Citizens Forum to honor a member of the Rockville Community. Glen Looper has been active locally as a Past President of the Rockville Chamber of Commerce, a former member of the Economic Development Council, and the Traffic and Transportation Committee. He was nationally recognized in his field by the National Automotive Radiator Service Association. In 1993, he was recognized as the National "Man Of The Year" and was recently elected President

of that organization. Delegate Gordon said it was quite an honor to have a national President in Rockville, and he said the House of Delegates saw fit to pass a resolution honoring Mr. Looper. Delegate Barve then presented Mr. Looper with a Resolution passed by the House of Delegates and Senator Jennie Forehand followed with her presentation of a Resolution passed by the Senate.

2. Stan Klein, 7 Lorre Court, referred to the notice in Rockville Reports that the City was inviting nominations for an Excellence in Landscape Award for Rockville businesses. He suggested the City implement a provision of its Pedestrian Policy to make pedestrian friendliness one of the major criteria for the Landscape Award.

3. Senator Jennie Forehand, 712 Smallwood Road said that in the early 1970's, the City had the William Waite Award which was similar to the Landscape Award. Mr. Waite, who chaired the Civic Improvement Advisory Commission, had done much for beautification in the City. She said neighbors were encouraged to find an area that was not landscaped and take it up as a project, and she suggested that the City look for volunteers to help beautify the City in other ways as well.

4. David Freishtat, applicant on Item #12 regarding Discussion and Instruction to staff on Text Amendment Application TXT95-0145, noted his presence and said he was available to answer any questions.

Re: Approval of Minutes

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, the Minutes of Meeting No. 10-95 (February 13, 1995 General Session, Worksession) were approved as written.

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Upon motion of Councilmember Weisbroth, duly seconded and unanimously passed, the Minutes of Meeting No. 11-95 (February 14, 1995 Worksession) were approved as written.

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, the Minutes of Meeting No. 12-95 (February 21, 1995 Public Hearing) were approved as written.

Re: Consent Agenda

Councilmember Dorsey requested removal of Item B. Upon motion of Councilmember Weisbroth, duly seconded and unanimously passed, Consent Agenda Item A was approved:

A. Award of Bid #1-96
To: Aramark Uniform Services
Of: Baltimore, Maryland
In the Amount of: \$51,719.13

For: The rental and cleaning service of pants, shirts, coveralls, and jackets for City employees.

Re: (Item B) Receipt of financial reports summarizing the results of City operations for the period from July 1, 1994, through March 31, 1995.

Councilmember Dorsey requested removal of Item B in order to inquire about the monthly revenue report under the General Fund. He noted that the issuance of trader licenses this late in the year, appeared too low. Finance Director Kevin Deckard said that the licenses were collected by the County Clerk and the annual renewal date was actually May 1st; businesses usually paid these in May and therefore the City received

almost all of its money from that source at the end of the fiscal year.

Upon motion of Councilmember Dorsey, duly seconded and unanimously passed, the financial reports summarizing the results of City operations for the period from July 1, 1994, through March 31, 1995 was accepted.

Re: Discussion and Instruction to staff - Text Amendment Application TXT95-0145, David D. Freishtat, Attorney for the Miller Companies and Rinksports Entertainment, Inc.

To amend the Zoning Ordinance to add a definition of a "Sport and Recreation Facility;" to allow a sport and recreation facility in the I-1 and C-2 zones, and by Special Exception in the I-4 zone; and to add a new parking space requirement for the new use.

Councilmember Krasnow said during the Public Hearing, there was discussion about the Planning Commission's recommendation of several modifications. She said there was no additional reference to these in the briefing materials, and she was not sure how the Planning Staff felt on reducing the size of the building under the definition to no less than 20,000 square feet. Ms. Krasnow said that she liked the Planning Commission's suggestions for parking and she agreed that the C-2 zone should be kept separate. Chief of Planning Lisa Rother said that 60,000 square feet was a more realistic figure in terms of the types of larger facilities being looked at. Ms. Krasnow said she had previously raised a concern about taking away valuable space. She assumed the higher use would be for industrial as opposed to recreational use, and it was her

inclination to keep the square footage at 60,000. She assumed the Planning Commission was trying to allow some flexibility in the zone and she agreed that flexibility was good.

Councilmember Weisbroth said she had a similar concern; she asked that staff provide a sense of the types of activities that might take place in a 20,000 square foot building that might be precluded if 60,000 square feet was approved. Ms. Rother said the differentiation was between an arena intensive use versus a multi-tenant building or bays in a warehouse where 20,000 could be accommodated. She said as a free-standing facility with specific parking regulations, this took on a single user, larger scale almost once for each sport regional attraction type of use.

Mayor Pro Tem Marrinan noted that of the four modifications requested by the Planning Commission; the last one dealt with a request that all applications for facilities under the proposed definition be forwarded to the Planning Commission for its review. The Commission wanted to retain the ability to review these uses because of concerns regarding liquor service and smoking in this type of facility and generally uses in industrial zones were reviewed at staff level and not forwarded to the Planning Commission. Mr. Marrinan said that the write-up did not address the issue. Ms. Rother said that staff generally reviewed uses in the City's industrial zones at the staff level unless they were adjacent to residential uses. Staff did not have the feeling that these needed to go to the Planning Commission; there was clear public discussion and policy about liquor service and smoking, and there were other ways to regulate these other than the Zoning Ordinance.

Following a lengthy discussion about the four modifications requested by the

Planning Commission, the Mayor Pro Tem and Council agreed that a sport and recreational facility could be allowed in the zone; however, they felt that additional information was needed regarding specifics of how the text amendment should be written. Mr. Glasgow suggested that an ordinance be brought back for introduction and concurrent with that, staff could provide information based on the Council's comments this evening regarding smoking, alcohol beverage licensing. He explained that introduction of the Ordinance would not foreclose the Mayor and Council's opportunity at the time of Introduction or subsequent to Introduction to make modifications based on the information received. Staff was instructed to move forward with an Ordinance for Introduction and to: (a) leave the square footage at 60,000, subject to additional information; (b) accept as written, the second and third Planning Commission points regarding parking and zones; and (c) not proceed with the Commission's fourth recommendation; however, the Mayor and Council would like additional information about how decisions are made regarding the smoking and alcohol issues.

David Freishtat, Attorney for the Applicant explained the reasoning behind his request for 60,000 square feet. Regarding the alcohol and smoking issue, Mr. Freishtat said that the smoking issue was moot. Regarding alcohol, Mr. Freishtat said there was a great deal of discussion about this, and in a recent case in Kensington, the Court ruled that State law preempted municipalities. Speaking for his client, Mr. Freishtat said that they did not want to do what the City did not want them to do; however, they would like to have the opportunity to serve alcohol if the market required it.

Re: Discussion and Instructions to
staff concerning Subsidiary Plan

for the City of Rockville,
Maryland for the Collection,
Transfer and Disposal of
Municipal Solid Waste.

Mr. Kuckkahn said that over past several months, staff had been working through this issue with the Solid Waste Task Force and with attorneys from Waste Management and County officials, in preparation for resubmission of the subsidiary plan request. Mr. Kuckkahn gave a brief history and overview of the proposal. In 1993, the City took bids for the disposal of our municipal solid waste; Waste Management submitted a bid which provided for a 200 tons per day facility with a disposal fee of \$43 per tons for regular refuse. The 200 tons per day facility required a building whose size could ultimately handle 600 tons. On 12/1/93, with Mayor and Council's Resolution #32-93, a subsidiary plan was submitted to the County. Although at that time, there was no success with moving the request to the County Council. Waste Management continues to express a great deal of interest in building this facility in Rockville and would continue to offer a reduced fee for disposal. However, during the same time period, there have been changes at the County level--the base systems benefit charge for refuse would result in a \$61.79 added cost to every household in the City. The theory behind the charge is that the County felt it needed a basic level of support for administration for simply providing the service if it was needed in the future, even if the City did not participate directly in their system. A move to our own system has the potential to save part or all of that money and this would represent a significant savings to our citizens.

Mr. Kuckkahn said the first step would be to resubmit the subsidiary plan to the new County Executive; the County Executive would then forward the plan to the

County Council and we would have to urge the Council to go along with the various provisions we want included in the system that we are proposing. If the County Council approved the plan for the City's transfer of waste to the Gude Drive facility, we would then go and negotiate a systems benefit charge. The City's current argument is that we would owe the County nothing because we do take care of refuse disposal on our own.

Mr. Kuckkahn said that there were several features in the submittal to the County Executive:

(1) Total tonnage we would like the County Executive to propose to the County Council. At this point, a 200 tons per day facility is the maximum we can expect; however, we feel strongly that we should continue to press for a 600 tons per day authorization; this would give the Mayor and Council the authority to add to that tonnage as they saw fit.

(2) Liability question - This is a serious concern to the County and the issue stood in the way of former County Executive Neal Potter's transferring the plan onto the rest of the council. The liability incurred by virtue of our taking care of our waste would be shifted to the City. Currently, the liability rests with the County Self-Insurance Fund. The County is saying that if we go out on our own, they will remove that portion of the self-insurance which covers solid waste disposal and shift it entirely to the City of Rockville. Mr. Kuckkahn said that we were not bothered by this issue because Waste Management offered, and it is in their contract, to relieve us of any responsibility; they are taking on the full responsibility of disposing of the waste and we are satisfied that its an adequate guarantee to protect City's interest.

Councilmember Krasnow said she strongly believed that doing our own solid waste disposal made a lot of sense in light of the County's decision to move forward with the incinerator as the City's own plan would save the citizens a lot of money.

Councilmember Weisbroth said that she concurred with Ms. Krasnow's point about moving forward; she noted that even if the City had to pay some proportion of that benefits charge to the county, over time we would see that differential grow in the City's favor and it was worthwhile pursuing.

Councilmember Dorsey said that he would also like to see a simplified version of the spreadsheet showing waste management calculations in case there was some factor that could dramatically change their numbers on the City.

The consensus was to move ahead. Mayor Pro Tem Marrinan pointed out that it was estimated that not only will there be a savings of \$660,000 in tipping fees by using City's transfer station rather than the County's transfer station; but there would also be a savings of approximately \$720,000 in system charges. While the number may change, it was still significant as the two amounts added up to a total savings to citizens of Rockville is \$1,380,000.

Councilmember Krasnow requested that the Mayor and Council be provided with information delineating out each possible negative scenario and any other possibilities. Mayor Pro Tem Marrinan said that assuming that the County Executive transmitted the plan to the County Council, the City would also need a plan on how to help the County Council understand the importance of this action to the City of Rockville.

Re: FYI/Correspondence

1. Councilmembers Dorsey and Krasnow commented on Grandparents' Day which focused on an international flair and brought a more diverse population to the event.

2. Mayor Pro Tem noted that the State Highway Administration informed the City that Key West Avenue will be extended 1.4 miles from Gude Drive to I-270 and would include constructing a six-lane divided highway. The project is expected to be completed in the spring of 1997.

Re: New Business

1. Councilmember Weisbroth asked what the Council's direction was to staff regarding the proposal for an Executive Golf Course in the City. Mr. Kuckkahn said that staff was looking for the Mayor and Council's endorsement to proceed with more formal discussions with County officials. The Mayor and Council agreed the idea was intriguing as a City/County partnership; however concerns were expressed that the golf course must be self-supporting as there were no funds available for venturing off into a speculative executive golf course. Recreation and Parks Director Burt Hall said that staff would take a close look at the projections for the demand for additional golf in this area of the County. He noted that a recent study conducted by the Revenue Authority showed there was currently a considerable pent-up demand for additional golf.

2. Proclamation Recognizing Gay and Lesbian Pride Month - Councilmember Krasnow said the Mayor and Council received a request from the Gay, Lesbian, Bisexual, and Transsexual Communities to issue a Proclamation recognizing a month to recognize their achievements. She noted that the request came in after the agenda was finalized.

She said the City had recognized Gay and Lesbian Pride Week in the past and this year's Proclamation was different as it recognized the month. Ms. Krasnow said she looked forward to the day when the City would recognize the year as these communities were an important part of Rockville, and the Mayor and Council have always encouraged celebrations of diversity within its community. Councilmember Krasnow read and moved the Proclamation, declaring the month of June 1995 as Lesbian, Bisexual, Transgender, and Gay Pride Month in Rockville. Lloyd Leifer, representing the Gay and Lesbian Interest Consortium, accepted the Proclamation.

3. Councilmember Marrinan mentioned that he and Mayor Coyle presided at the Rockville Arts League awards presentation at Glenview Mansion on May 14. He said the quality of art was impressive and there were a number of people in attendance. Mr. Marrinan also commented that Glenview Mansion and the grounds were in excellent shape and provided a beautiful setting for the exhibit.

4. Councilmember Marrinan noted that County Executive Duncan recommended that the detention center be moved to Clarksburg and the current site be used temporarily for a transitional use. Recently, the County's Public Safety Committee recommended instead that additional alternate sites be looked at including the possibility of expanding the current Seven Locks facility site to be used possibly for a major new facility. Mr. Marrinan said it was clear that the Mayor and Council's position continues to be that the current Seven Locks site was inappropriate and when the last use permit was issued, it was clearly stated that the site was not to be expanded and the County Executive's Office, at that time, promised that this would not happen. Mr. Marrinan

suggested the Mayor and Council go on record with the County Council, who is scheduled to address the issue on May 19, and that a letter be forwarded stating the Mayor and Council's support for the County Executive's position that the issue be approved as the County Executive forwarded it to the County Council.

Councilmember Krasnow said she supported the idea of going on record. She said that the detention center relocation issue needed to get underway, and she did not understand the reason for re-opening the issue for discussion. Mayor Pro Tem Marrinan directed staff to prepare a letter expressing the Mayor and Council's position on the issue to be forwarded immediately to the County Council.

Re: Next Meeting

The Mayor and Council will hold a public hearing on Tuesday, May 9, 1995 to take comments on the proposed FY96 Budget Public Hearing.

Re: Adjournment to Executive Session

Upon motion of Councilmember Dorsey, duly seconded and unanimously passed, the Mayor and Council adjourned at 9:50 p.m. to reconvene immediately in Executive Session pursuant to Section 10-508(a)(7) of the State Government Article, Annotated Code of Maryland to consult with counsel to obtain legal advice.